

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HONEYWELL INTERNATIONAL INC.)	
and HONEYWELL INTELLECTUAL)	
PROPERTIES INC.,)	
)	
Plaintiffs,)	
)	C.A. No. 04-1337- JJF
v.)	(Consolidated)
)	
NIKON CORPORATION, et al.,)	
)	
Defendants.)	

**SPECIAL MASTER'S REPORT AND RECOMMENDATIONS
REGARDING THE RESTRUCTURING OF PENDING
HONEYWELL CASES (04-1337, 04-1338, 04-1536, 05-874)**

Having considered the written submissions of all interested parties and having conducted multiple hearings, the Special Master recommends: (1) consolidating the four pending actions under C.A. No. 04-1337;¹ (2) joining all of the Manufacturer Defendants in a single trial; (3) creating two alternative scheduling tracks through trial of the Manufacturer Defendants; and (4) entering a scheduling order for Customer Defendants.

I. Single Trial – All Issues Against All Manufacturer Defendants

Given the complex procedural history related to the Honeywell cases as outlined in the August 13, 2008 Report and Recommendation, and with only five Manufacturer Defendants remaining, the Special Master concludes that proceeding with a single trial against all Manufacturer Defendants is the most efficient and least complicated path for the Court. Additionally, the Special Master notes that only a single claim (claim 3 of U.S. Patent No. 5,280,371) and a limited number of claim terms are in dispute, and that given the nature of the relevant technology, it is expected that proof of infringement, invalidity, etc. can be relatively

¹ All future filings shall be docketed in Consolidated C.A. No. 04-1337 as captioned above.

straightforward. The Special Master, therefore, disagrees with those Manufacturer Defendants which suggest that multiple trials are necessary because a jury would be confused by multiple accused LCD modules of different Manufacturer Defendants.

The Special Master is aware that during a March 13, 2006 teleconference, Judge Jordan directed that the invalidity and unenforceability phase would precede the infringement phase. The Special Master concludes, however, that it would be prejudicial to Plaintiff Honeywell not to structure the trial in the traditional manner. The Special Master sees no compelling reason to forestall the presentation of Honeywell's infringement claims in favor of first determining invalidity or unenforceability.

II. Single Trial Against All Customer Defendants

Similarly, the Special Master concludes that proceeding with a single trial against all remaining Customer Defendants is the most efficient and least complicated path for the Court. While eleven Customer Defendants remain stayed in this case, the Special Master has established a procedure for both voluntary dismissals as well as motion practice for dismissal.² The single trial against the Customer Defendants would also proceed in the traditional manner, similar to the trial against the Manufacturer Defendants.

III. Scheduling Through Trial

A. Alternative TRACKS 1 and 2

To accommodate the interests of all defendants in an efficient manner, the Special Master proposes 2 alternative scheduling tracks for this case. Attachment 1 provides the TRACK 1 schedule, and Attachment 2 provides the TRACK 2 schedule.³ The tracks diverge once the *Markman* decision issues. By providing two scheduling tracks, remaining Customer Defendants

² See schedule concluding in the December 4, 2008 hearing for motions to dismiss. (D.I. 1201 in C.A. No. 04-1338)

³ The Special Master also attaches the chart prepared by Honeywell, which reflects the parties' proposed schedules.

are given the opportunity to weigh in on *Markman*.⁴ TRACK 1 is the faster path providing for a July 2009 trial date. TRACK 2 provides for a November 2009 trial date.

Both tracks give the Customer Defendants time to evaluate *Markman* related discovery, the claim construction briefing, and the *Markman* decision. In this regard, Honeywell has agreed to provide *Markman* related discovery including infringement contentions to all Customer Defendants by October 1, 2008. Also, both tracks give the Customer Defendants 7 days after the *Markman* decision issues to either stipulate to *Markman* or request supplementation of the claim construction briefing. By stipulating to the *Markman* decision, the case may proceed on TRACK 1 and the earlier July trial date. If any one Customer Defendant, however, does not stipulate and instead requests supplementation of the claim construction briefing, the case proceeds on TRACK 2 and the later November trial date.

The Special Master's reasoning for the remaining issues on the scheduling tracks, such as discovery motions, expert discovery, case dispositive motions, etc., are evident from the TRACK 1 and TRACK 2 charts. For convenience, the Special Master provides reasons for each scheduling event in both the TRACK 1 and TRACK 2 charts.

B. Second Wave Customer Defendants

Once those Customer Defendants that will remain in the case have been identified, the Special Master will conduct a status hearing with those Customer Defendants and Honeywell to establish a schedule through trial.

IV. Conclusion

For the reasons set forth above, the conclusions reached, the guidelines provided, and the schedule established constitute the Special Master's Report and Recommendations to the Court.

⁴ Because the Customer Defendants have been stayed since late 2005/early 2006, those defendants did not have the opportunity to participate in *Markman*.

THE SPECIAL MASTER'S REPORT WILL BECOME A FINAL ORDER OF THE COURT, UNLESS OBJECTION IS TAKEN IN ACCORDANCE WITH THE ANTICIPATED ORDER BY THE COURT WHICH SHORTENS THE TIME WITHIN WHICH AN APPLICATION MAY BE FILED PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 53(f)(2).

ENTERED this 24th day of September, 2008.

A handwritten signature in black ink, consisting of a large, stylized 'V' followed by a horizontal line and a small flourish.

Vincent J. Poppiti, Esq. (DE ID # 100614)
Special Master

TRACK 1

Citizen's Motion for Summary Judgment		
Event	Special Master Proposal	Reason
Oral Argument and Ruling on Citizen's Motion Re: Disputed Facts (if necessary)	October 2, 2008	Oral argument and associated briefing only if Special Master cannot determine on the briefs no genuine issues of material fact
Honeywell's Legal Brief (if necessary)	November 3, 2008	
Citizen's Reply Brief (if necessary)	November 21, 2008	
Oral Argument and Ruling on Citizen's Motion (if necessary)	TBD	
Exceptions to Ruling (limited to 7 pages)	7 days after ruling	
Replies to Exceptions (limited to 5 pages)	5 days after exceptions	

Proposed Schedule for Trial of Manufacturer Defendants

Discovery Matters Unrelated to <i>Markman</i>		
Event	Special Master Proposal	Reason
Opening Briefs Regarding Parties' Exchange of All Communications with Customer Defendants Regarding Accused Products (limited to 4 pages per August 13, 2008 Order)	September 26, 2008	These dates fit with the Oct. 22 hearing
Responsive Briefs re: same (limited to 4 pages per August 13, 2008 Order)	October 10, 2008	
Honeywell to produce all communications with customer defendants regarding accused products, to the extent not already done	October 15, 2008	Agreed to by parties
Hearing on parties' exchange of all communications with customer defendants— decision at hearing	October 22, 2008	The Special Master believes that in the interest of efficiency the following can be heard on the same day and that decisions are likely to be rendered at

TRACK 1

Discovery Matters Unrelated to <i>Markman</i>		
Event	Special Master Proposal	Reason
Hearing on Honeywell's pending motion for discovery regarding commercial success from Customer Defendants—decision at hearing	October 22, 2008	<p>the hearing on Oct. 22, 2008:</p> <ul style="list-style-type: none"> • Honeywell's motion regarding commercial success, associated discovery schedule and Manufacturer Defendants' associated motions • Manufacturer Defendants refusal to produce all communications with Customer Defendants • Enforcement of Magistrate's Thygne's May 17, 2007 Order • Samsung SDI' motion regarding Honeywell's assertion of common interest privilege
Hearing on FUJIFILM's pending motion to compel Honeywell's production of its teardown information on modules it found to infringe but omitted from the chart produced in response to Magistrate Judge Thygne's May 17, 2007 oral order (D.I. 848; 851) (contingent on grant of Honeywell's motion for commercial success discovery)	October 22, 2008	
Hearing on Manufacturer Defendants' request for Discovery from Honeywell regarding modules Honeywell dismantled but found not to infringe '371 patent (contingent on grant of Honeywell's motion for commercial success discovery)	October 22, 2008	
Hearing on enforcement of Magistrate Thygne's Order of May 17, 2007 granting further deposition of Ted Wood re 50% hit rate (if necessary)	October 22, 2008	
Hearing on Samsung SDI's pending motion to compel discovery previously withheld by Honeywell as common interest privilege	October 22, 2008	
Discovery schedule regarding commercial success – Honeywell to show why it needs more than 45 days to complete discovery	TBD at October 22, 2008 hearing	
Exceptions to rulings at October 22, 2008 hearing (limited to 7 pages)	October 29, 2008	
Replies to Exceptions (limited to 5 pages)	November 5, 2008	

TRACK 1

Stipulation To <i>Markman</i>		
Event	Special Master Proposal	Reason
Honeywell to provide <i>Markman</i> related discovery including infringement contentions to all Customer Defendants	October 1, 2008	Date agreed to by the parties by which the Customer Defendants will decide whether they will stipulate to <i>Markman</i>
Customer Defendants to file stipulation to Judge Farnan's <i>Markman</i> decision	7 days after <i>Markman</i> ruling	All Customer Defendants must agree to stipulate to <i>Markman</i> for the case to stay on track 1

Post- <i>Markman</i> Matters		
Event	Special Master Proposal	Reason
Parties to supplement interrogatory responses, responses to requests for admission, and document requests	14 days after Judge Farnan's <i>Markman</i> ruling	Agreed to by parties
Parties to make election regarding willfulness, including opinions of counsel, and production thereof.	14 days after Judge Farnan's <i>Markman</i> ruling	Agreed to by parties

Expert Discovery		
Event	Special Master Proposal	Reason
Parties to report to each other whether they will supplement their expert reports on invalidity and unenforceability	10 days after the latter of the <i>Markman</i> Ruling or completion of discovery related to commercial success	Parties agreed to 90 day period for expert discovery and allocation of deposition time. This agreement supplements the initial proposal reflected in the Parties' Proposed Schedules Chart.
Service of Reports on Which Each Party Has Burden	Expert reports on issues where each party has the burden 30 days after the latter of the <i>Markman</i> ruling or completion of discovery related to commercial success	

TRACK 1

Expert Discovery		
Event	Special Master Proposal	Reason
Service of Expert Reports Responding to those where Each Party has Burden	Service of expert reports in response to opening reports 30 days after service of opening reports	
Conclusion of Expert Discovery	<p>21 days after responsive expert reports</p> <ul style="list-style-type: none"> • Invalidity depositions limited to new opinions relating to <i>Markman</i> Ruling and commercial success discovery, and limited to 4.0 hours per expert; • Infringement expert depositions limited to 4.0 hours, per expert, per party; and <p>Total deposition hours of Honeywell's damages expert: 3.5 hours plus 4 hours for each defendant participating in the deposition.</p> <p>Total deposition hours of manufacturer defendants' damages expert: 7.0 hours per expert, or if an expert is shared, 3.5 hours plus 4 times the number of defendants sponsoring the shared expert.</p>	

TRACK 1

Case Dispositive Motions		
Event	Special Master Proposal	Reason
Opening Briefs (limited to 20 pages)	21 days after close of expert discovery	<ul style="list-style-type: none"> Parties agreed to eliminate Statements and Counter-Statements regarding genuine issues of material fact Triggered by close of expert discovery Would overlap only preliminary stages of motions in limine schedule
Oppositions to Opening Briefs (limited to 20 pages)	14 days after filing opening briefs	
Reply Briefs (limited to 10 pages)	10 days after filing opposition briefs	
Hearing on Case Dispositive Motions	TBD after Markman ruling	Ensures hearing is after Markman
Rulings on Case Dispositive Motions	TBD after Markman ruling	Written decision to issue TBD number of days after hearing
Exceptions to Rulings on Case Dispositive Motions (limited to 7 pages)	7 days after the Rulings on the Case Dispositive motions	Provides 7 day period
Replies to Exceptions to Rulings on Case Dispositive Motions (limited to 5 pages)	5 days after the Exceptions to Rulings	Provides 5 day period

TRACK 1

Motions in <i>Limine</i> and Trial-Readiness			
	Honeywell's Proposal	Defendants' Proposal	Special Master Proposal
Parties exchange Preliminary Versions of their parts of the Pretrial Order	May 7, 2009	April 27, 2009	TBD by Judge Farnan
Parties exchange objections and supplementation to Preliminary Versions of the Pretrial Order	May 14, 2009	May 4, 2009	TBD by Judge Farnan
Parties Meet-and-Confer Regarding Pretrial Order issues	May 18, 2009	May 6, 2009	TBD by Judge Farnan
Status Conference Regarding Remaining Schedule	May 21, 2009		TBD by Judge Farnan
Motions in <i>Limine</i> /Daubert Motions	June 4, 2009	May 15, 2009	TBD by Judge Farnan
Responses to Motions in <i>Limine</i> /Daubert Motions	June 11, 2009	May 22, 2009	TBD by Judge Farnan
Hearings on Motions in <i>Limine</i> /Daubert Motions	June 18, 2009	June 3, 2009	TBD by Judge Farnan
Rulings on Motions in <i>Limine</i> /Daubert Motions	TBD	Provided on a rolling basis no later than June 12, 2009	TBD by Judge Farnan

Pretrial Conference			
	Honeywell's Proposal	Defendants' Proposal	Special Master Proposal
Honeywell Provides its Parts of the Pretrial Order	June 25, 2009	June 8, 2009	TBD by Judge Farnan
Defendants Provide their Parts of the Pretrial Order	July 1, 2009	June 15, 2009	TBD by Judge Farnan
Final Pretrial Order	July 8, 2009	June 22, 2009	TBD by Judge Farnan
Pretrial Conference	July 10, 2009	Week of June 29, 2009	TBD by Judge Farnan
Commence Trial on all Issues Against all Manufacturer Defendants	July 13-30, 2009	July 13-30, 2009	July 13-30, 2009

TRACK 1

Innolux		
Event	Special Master Proposal	Reason
Deadline for Honeywell to Conclude Jurisdictional Discovery	November 26, 2008	Agreed to by parties
InnoLux to Renew its Motion to Dismiss	November 28, 2008	Agreed to by parties
Honeywell's Opposition to Innolux's Renewed Motion to Dismiss (limited to 20 pages)	December 9, 2008	Agreed to by parties
InnoLux's Reply (limited to 10 pages)	December 16, 2008	Agreed to by parties
Hearing	December 19, 2008	Agreed to by parties
Ruling	TBD	Provide some flexibility in Special Master's schedule
Substantive Fact Discovery	Being considered	The Special Master is considering whether Innolux's motion to dismiss based on lack of jurisdiction prevented Honeywell from conducting fact discovery
Exceptions to Ruling (limited to 7 pages)	7 days from Ruling	Provides 7 day time period
Replies to Exceptions (limited to 5 pages)	5 days from Exceptions	Provides 5 day time period
Expert Discovery	Same Schedule as All Manufacturer Defendants	Merge with other Manufacturer Defendants
Dispositive Briefing and Trial	Same Schedule as All Manufacturer Defendants	Merge with other Manufacturer Defendants

TRACK 2

Citizen's Motion for Summary Judgment		
Event	Special Master Proposal	Reason
Oral Argument and Ruling on Citizen's Motion Re: Disputed Facts (if necessary)	October 2, 2008	Oral argument and associated briefing only if Special Master cannot determine on the briefs no genuine issues of material fact
Honeywell's Legal Brief (if necessary)	November 3, 2008	
Citizen's Reply Brief (if necessary)	November 21, 2008	
Oral Argument and Ruling on Citizen's Motion (if necessary)	TBD	
Exceptions to Ruling (limited to 7 pages)	7 days after ruling	
Replies to Exceptions (limited to 5 pages)	5 days after exceptions	

Proposed Schedule for Trial of Manufacturer Defendants

Discovery Matters Unrelated to <i>Markman</i>		
Event	Special Master Proposal	Reason
Opening Briefs Regarding Parties' Exchange of All Communications with Customer Defendants Regarding Accused Products (limited to 4 pages per August 13, 2008 Order)	September 26, 2008	These dates fit with the Oct. 22 hearing
Responsive Briefs re: same (limited to 4 pages per August 13, 2008 Order)	October 10, 2008	
Honeywell to produce all communications with customer defendants regarding accused products, to the extent not already done	October 15, 2008	
Hearing on parties' exchange of all communications with customer defendants— decision at hearing	October 22, 2008	The Special Master believes that in the interest of efficiency the following can be heard on the same day and that decisions are likely to be rendered at

TRACK 2

Discovery Matters Unrelated to <i>Markman</i>		
Event	Special Master Proposal	Reason
Hearing on Honeywell's pending motion for discovery regarding commercial success from Customer Defendants—decision at hearing	October 22, 2008	<p>the hearing on Oct. 22, 2008:</p> <ul style="list-style-type: none"> • Honeywell's motion regarding commercial success, associated discovery schedule and Manufacturer Defendants' associated motions • Manufacturer Defendants refusal to produce all communications with Customer Defendants • Enforcement of Magistrate's Thygne's May 17, 2007 Order • Samsung SDI' motion regarding Honeywell's assertion of common interest privilege
Hearing on FUJIFILM's pending motion to compel Honeywell's production of its teardown information on modules it found to infringe but omitted from the chart produced in response to Magistrate Judge Thygne's May 17, 2007 oral order (D.I. 848; 851) (contingent on grant of Honeywell's motion for commercial success discovery)	October 22, 2008	
Hearing on Manufacturer Defendants' request for Discovery from Honeywell regarding modules Honeywell dismantled but found not to infringe '371 patent (contingent on grant of Honeywell's motion for commercial success discovery)	October 22, 2008	
Hearing on enforcement of Magistrate Thygne's Order of May 17, 2007 granting further deposition of Ted Wood re 50% hit rate (if necessary)	October 22, 2008	
Hearing on Samsung SDI's pending motion to compel discovery previously withheld by Honeywell as common interest privilege	October 22, 2008	
Discovery schedule regarding commercial success – Honeywell to show why it needs more than 45 days to complete discovery	TBD at October 22, 2008 hearing	
Exceptions to rulings at October 22, 2008 hearing (limited to 7 pages)	October 29, 2008	
Replies to Exceptions (limited to 5 pages)	November 5, 2008	

TRACK 2

Supplemental Markman Briefing and Final Markman Ruling

Event	Special Master Proposal	Reason
Honeywell to provide <i>Markman</i> related discovery including infringement contentions to all Customer Defendants	October 1, 2008	Date agreed to by the parties by which the Customer Defendants will decide whether they will stipulate to Markman
Customer Defendants may request supplemental claim construction briefing regarding Preliminary <i>Markman</i> ruling; Customer Defendants must make showing of what discovery is needed not already of record	The latter of 7 days after final ruling on Customer Defendants Motions to Dismiss or 7 days after the Preliminary Markman ruling.	Allows those Customer Defendants remaining in the case to weigh in on the Preliminary Markman hearing
Hearing on Customer Defendants' request for consideration of supplemental claim construction briefing and additional discovery related to claim construction – decision at hearing	The latter of 9 days after final ruling on Customer Defendants Motions to Dismiss or 9 days after Preliminary Markman ruling	Customer Defendants must show why they need additional discovery related to claim construction
Completion of Customer Defendants' discovery regarding claim construction	30 days from hearing on Customer Defendant's request for consideration of supplemental claim construction briefing	Limits Customer Defendants to 30 days for discovery regarding claim construction
Filing of supplemental claim construction brief (same page limits as that for opening claim construction brief)	15 days from completion of Customer Defendants' discovery regarding claim construction	Provides 15 day period from close of discovery to file supplemental claim construction brief(s)
Honeywell to file opposition claim construction brief (same page limits as that for opposition claim construction brief)	10 days from Customer Defendants supplemental claim construction brief	Provides 10 day period for Honeywell to file opposition brief(s)
Final <i>Markman</i> Ruling	TBD by Judge Farman	

TRACK 2

Post- <i>Markman</i> Matters		
Event	Special Master Proposal	Reason
Parties to supplement interrogatory responses, responses to requests for admission, and document requests	14 days after Judge Farnan's <i>Markman</i> ruling	Agreed to by parties
Parties to make election regarding willfulness, including opinions of counsel, and production thereof.	14 days after Judge Farnan's <i>Markman</i> ruling	Agreed to by parties

Expert Discovery		
Event	Special Master Proposal	Reason
Parties to report to each other whether they will supplement their expert reports on invalidity and unenforceability	10 days after the latter of the <i>Markman</i> Ruling or completion of discovery related to commercial success	Parties agreed to 90 day period for expert discovery and allocation of deposition time. This agreement supplements the initial proposal reflected in the Parties' Proposed Schedules Chart.
Service of Reports on Which Each Party Has Burden	Expert reports on issues where each party has the burden 30 days after the latter of the <i>Markman</i> ruling or completion of discovery related to commercial success	
Service of Expert Reports Responding to those where Each Party has Burden	Service of expert reports in response to opening reports 30 days after service of opening reports	

TRACK 2

Expert Discovery		
Event	Special Master Proposal	Reason
Conclusion of Expert Discovery	<p>21 days after responsive expert reports</p> <ul style="list-style-type: none">• Invalidity depositions limited to new opinions relating to <i>Markman</i> Ruling and commercial success discovery, and limited to 4.0 hours per expert;• Infringement expert depositions limited to 4.0 hours, per expert, per party; and <p>Total deposition hours of Honeywell's damages expert: 3.5 hours plus 4 hours for each defendant participating in the deposition.</p> <p>Total deposition hours of manufacturer defendants' damages expert: 7.0 hours per expert, or if an expert is shared, 3.5 hours plus 4 times the number of defendants sponsoring the shared expert.</p>	

TRACK 2

Case Dispositive Motions		
Event	Special Master Proposal	Reason
Opening Briefs (limited to 20 pages)	21 days after close of expert discovery	<ul style="list-style-type: none"> • Parties agreed to eliminate Statements and Counter-Statements regarding genuine issues of material fact • Triggered by close of expert discovery • Would overlap only preliminary stages of motions in limine schedule
Oppositions to Opening Briefs (limited to 20 pages)	14 days after filing opening briefs	
Reply Briefs (limited to 10 pages)	10 days after filing opposition briefs	
Hearing on Case Dispositive Motions	TBD after Markman ruling	Ensures hearing is after Markman
Rulings on Case Dispositive Motions	TBD after Markman ruling	Written decision to issue TBD number of days after hearing
Exceptions to Rulings on Case Dispositive Motions (limited to 7 pages)	7 days after the Rulings on the Case Dispositive motions	Provides 7 day period
Replies to Exceptions to Rulings on Case Dispositive Motions (limited to 5 pages)	5 days after the Exceptions to Rulings	Provides 5 day period

TRACK 2

Motions in *Limine* and Trial-Readiness

Event	Special Master Proposal
Parties exchange Preliminary Versions of their parts of the Pretrial Order	TBD by Judge Farnan
Parties exchange objections and supplementation to Preliminary Versions of the Pretrial Order	TBD by Judge Farnan
Parties Meet-and-Confer Regarding Pretrial Order issues	TBD by Judge Farnan
Status Conference Regarding Remaining Schedule	TBD by Judge Farnan
Motions in <i>Limine</i> / <i>Daubert</i> Motions	TBD by Judge Farnan
Responses to Motions in <i>Limine</i> / <i>Daubert</i> Motions	TBD by Judge Farnan
Hearings on Motions in <i>Limine</i> / <i>Daubert</i> Motions	TBD by Judge Farnan
Rulings on Motions in <i>Limine</i> / <i>Daubert</i> Motions	TBD by Judge Farnan

Pretrial Conference	
Event	Special Master Proposal
Honeywell Provides its Parts of the Pretrial Order	TBD by Judge Farnan
Defendants Provide their Parts of the Pretrial Order	TBD by Judge Farnan
Final Pretrial Order	TBD by Judge Farnan
Pretrial Conference	TBD by Judge Farnan
Commence Trial on all Issues Against all Manufacturer Defendants	November 2009

TRACK 2

InnoLux		
Event	Special Master Proposal	Reason
Deadline for Honeywell to Conclude Jurisdictional Discovery	November 26, 2008	Agreed to by parties
InnoLux to Renew its Motion to Dismiss	November 28, 2008	Agreed to by parties
Honeywell's Opposition to InnoLux's Renewed Motion to Dismiss (limited to 20 pages)	December 9, 2008	Agreed to by parties
InnoLux's Reply (limited to 10 pages)	December 16, 2008	Agreed to by parties
Hearing	December 19, 2008	Agreed to by parties
Ruling	TBD	Provide some flexibility in Special Master's schedule
Substantive Fact Discovery	Being considered	The Special Master is considering whether InnoLux's motion to dismiss based on lack of jurisdiction prevented Honeywell from conducting fact discovery
Exceptions to Ruling (limited to 7 pages)	7 days from Ruling	Provides 7 day time period
Replies to Exceptions (limited to 5 pages)	5 days from Exceptions	Provides 5 day time period
Expert Discovery	Same Schedule as All Manufacturer Defendants	Merge with other Manufacturer Defendants
Dispositive Briefing and Trial	Same Schedule as All Manufacturer Defendants	Merge with other Manufacturer Defendants

THE PARTIES' PROPOSED SCHEDULES

Citizen's Motion for Summary Judgment			
	Honeywell's Proposal	Citizen's Proposal	
Parties to Reassess Potential for Mediation	As soon as possible	As soon as possible	
Oral Argument and Ruling on Citizen's Motion Re: Disputed Facts	October 2, 2008	October 2, 2008	
Honeywell's Legal Brief (if necessary)	November 3, 2008	November 3, 2008	
Citizen's Reply Brief (if necessary)	November 21, 2008	November 21, 2008	
Oral Argument and Ruling on Citizen's Motion (if necessary)	TBD	TBD	

Proposed Schedule for Trial of Manufacturer Defendants

Pre-Markman Matters			
	Honeywell's Proposal	Defendants' Proposal	
Honeywell and Manufacturer Defendants to serve all outside counsel for customer defendants with confidential versions of their respective Markman papers, expert reports, expert deposition transcripts, and Markman demonstratives	Already done	September 16, 2008	
Honeywell to serve all Customer Defendants with the following: (a) Honeywell's detailed infringement contentions (i.e., a limitation-by-limitation chart comparing the asserted claims against the accused products);	(a) Honeywell has agreed to provide its infringement contention responses produced during discovery to Manufacturer-Defendants.	September 23, 2008	

THE PARTIES' PROPOSED SCHEDULES

Pre-Markman Matters			
	Honeywell's Proposal	Defendants' Proposal	
(b) All discovery materials produced by Honeywell in this case (written responses and documents produced), all inventor deposition transcripts;	(b) Honeywell has already sent all of its <i>Markman</i> -related materials and validity expert discovery to the customer defendants. Additional materials are unnecessary to evaluating the claim construction record.		
(c) Detailed description as to why Honeywell believes each Customer Defendant having one or more licensed suppliers does not have a license (or other ground for non-liability) due to the license.	(c) Such descriptions have already been provided as part of the meet-and-confer and informal process currently in place. In addition, part (c) is irrelevant to claim construction.		
Opening Briefs Regarding Parties' Exchange of All Communications with Customer Defendants Regarding Accused Products (limited to 4 pages per August 13, 2008 Order)	September 18, 2008	September 26, 2008	
Responsive Briefs re: same	September 25, 2008	October 10, 2008	
Hearing on parties' exchange of all communications with customer defendants—decision at hearing	October 2, 2008	October 22, 2008	
Hearing on Honeywell's pending motion for discovery regarding commercial success from Customer Defendants—decision at hearing	Honeywell has proposed alternative procedures for alleviating the need to conduct commercial success discovery. See § II of Honeywell's Cover Letter.	October 2, 2008	

THE PARTIES' PROPOSED SCHEDULES

<i>Pre-Markman Matters</i>			
	Honeywell's Proposal	Defendants' Proposal	
	Hearing, if necessary, on October 2, 2009, and production of same to be consistent with Honeywell's production date (October 15, 2008)		
Hearing on FUJIFILM's pending motion to compel Honeywell's production of its teardown information on modules it found to infringe but omitted from the chart produced in response to Magistrate Judge Thyne's May 17, 2007 oral order (D.I. 848; 851) (contingent on grant of Honeywell's motion for commercial success discovery)	This event was not part of Special Master's Proposal. If heard, then October 2, 2008	October 2, 2008	
Hearing on Manufacturer Defendants' request for Discovery from Honeywell regarding modules Honeywell dismantled but found not to infringe '371 patent (contingent on grant of Honeywell's motion for commercial success discovery)	This event was not part of Special Master's Proposal. If heard, then October 2, 2008	October 2, 2008	
Hearing on enforcement of Magistrate Thyne's Order of May 17, 2007 granting further deposition of Ted Wood re 50% hit rate (if necessary)	This event was not part of Special Master's Proposal. If heard, then October 2, 2008	October 2, 2008	

THE PARTIES' PROPOSED SCHEDULES

<i>Pre-Markman</i> Matters			
	Honeywell's Proposal	Defendants' Proposal	
Hearing on Samsung SDI's pending motion to compel discovery previously withheld by Honeywell as common interest privilege	October 2, 2008	October 22, 2008	
Discovery schedule regarding commercial success	TBD at October 2, 2008 hearing. See §§ II, IV, of Honeywell's Cover Letter.	TBD at October 2, 2008 hearing (if necessary, but no more than 45 days)	
Honeywell to produce all communications with customer defendants regarding accused products, to the extent not already done	October 15, 2008	October 15, 2008	

THE PARTIES' PROPOSED SCHEDULES

Supplemental <i>Markman</i> Briefing and Final <i>Markman</i> Ruling			
	Honeywell's Proposal ¹	Defendants' Proposal	
Customer Defendants may request supplemental claim construction briefing regarding Preliminary <i>Markman</i> ruling; Customer Defendants must make showing of what discovery is needed not already of record	October 1, 2008	The latter of 7 days after final ruling on Customer Defendants Motions to Dismiss or 7 days after the Preliminary <i>Markman</i> ruling ²	
Hearing on Customer Defendants' request for consideration of supplemental claim construction briefing and additional discovery related to claim construction -- decision at hearing	October 2, 2008	The latter of 9 days after final ruling on Customer Defendants Motions to Dismiss or 9 days after Preliminary <i>Markman</i> ruling ³	
Customer Defendants to conduct discovery regarding claim construction and filing of supplemental claim construction brief (same page limits as that for opening claim construction brief).	October 23, 2008	30 days from hearing on Customer Defendants' request for consideration of supplemental claim construction briefing	
Honeywell to file opposition claim construction brief (same page limits as that for opposition claim construction brief).	November 4, 2008	10 days from Customer Defendants' supplemental claim construction brief	
Final <i>Markman</i> Ruling	TBD by Judge Farnan	TBD by Judge Farnan	

¹ For the purpose of setting proposed dates, Honeywell's proposal assumes a Preliminary *Markman* Ruling date of September 29, 2008

² All references to days are calendar days.

³ Defendants propose that the Preliminary *Markman* ruling automatically becomes the Final *Markman* ruling if (a) the Customer Defendants do not request supplemental claim construction briefing or (b) the Customer Defendant's request for supplemental claim construction briefing is denied. As stated at the hearing on September 4, 2008, depending upon the date that such contingencies become a reality, Honeywell submits that it may be necessary to set a reasonable date certain for the triggering of the expert phase.

THE PARTIES' PROPOSED SCHEDULES

Post-Final-Markman Matters			
Parties to supplement interrogatory responses, responses to requests for admission, and document requests	November 26, 2008	14 days after Judge Farnan's Final Markman ruling	
Parties to make election regarding willfulness, including opinions of counsel, and production thereof.	November 26, 2008	14 days after Judge Farnan's Final Markman ruling	

Expert Discovery			
	Honeywell's Proposal	Defendants' Proposal	
Parties to report to each other whether they will supplement their expert reports on invalidity and unenforceability	November 13, 2008 (limited to invalidity) ⁴ See §§ II, IV, of Honeywell's Cover Letter.	10 days after the latter of the final Markman Ruling or completion of discovery related to commercial success	
Service of Reports on Which Each Party Has Burden	December 15, 2008	Expert Reports on issues where each party has the burden 30 days after the latter of the final Markman Ruling or completion of discovery related to commercial success	
Service of Expert Reports Responding to those where Each Party	See §§ II, IV, of Honeywell's Cover Letter. January 20, 2009 See §§ II, IV, of Honeywell's Cover	Service of expert reports in response to opening reports 30 days after service of opening	

⁴ Honeywell does not believe that there is any basis in the Court's pending *Markman* ruling to supplement unenforceability opinions, given that this defense is based upon claims not before the Court.

THE PARTIES' PROPOSED SCHEDULES

Expert Discovery			
	Honeywell's Proposal	Defendants' Proposal	
has Burden	Letter.	reports	
Conclusion of Expert Discovery	February 10, 2009 For infringement, depositions to last 4 hours per defendant. <i>E.g.</i> , Honeywell takes the Defendants' infringement experts for 4 hours for each defendant that an expert opines about. Defendants will take the corresponding amount of time with Honeywell's infringement experts. For damages, 4 hours per defendant on Defendant-specific issues, an additional joint 3.5 hours on common issues (<i>e.g.</i> , expert's understanding <i>Georgia Pacific</i> factors). For supplemental invalidity, depositions to be limited to 4 hours per expert.	21 days after responsive expert reports <ul style="list-style-type: none"> Invalidity depositions limited to new opinions relating to Markman Ruling and commercial success discovery, and limited to 7.0 hours per expert; Infringement expert depositions limited to 4.0 hours, per expert, per party; and Damages expert depositions limited to 7.0 hours per expert, per party	

Case Dispositive Motions			
	Honeywell's Proposal	Defendants' Proposal	
Opening Briefs and Certifications on a Limited Number of Issues	February 26, 2009	21 days after close of expert discovery	
Counter-Statements and Certifications	March 6, 2009	14 days after filing opening briefs	

THE PARTIES' PROPOSED SCHEDULES

Case Dispositive Motions		
	Honeywell's Proposal	Defendants' Proposal
Responses to Counter-Statements	March 10, 2009	7 days after filing counter-statement
Special Master's Determination Whether Disputed Facts Exist	March 12, 2009	TBD
If Special Master decides that there are no factual disputes, then the parties shall file Responses to Case Dispositive motions	March 20, 2009	14 days after Special Master decides there are no material factual disputes
Reply Briefs	March 26, 2009	10 days after Responses are filed
Hearing on Case Dispositive Motions	April 1, 2009	TBD
Rulings on Case Dispositive Motions	April 8, 2009	TBD
Exceptions to Rulings on Case Dispositive Motions	April 13, 2009	10 days after the Rulings on the Dispositive Motions (including a determination that factual disputes exist)
Replies to Exceptions to Rulings on Case Dispositive Motions	April 17, 2009	5 days after the Exceptions to Rulings

THE PARTIES' PROPOSED SCHEDULES

Motions in <i>Limine</i> and Trial-Readiness			
	Honeywell's Proposal	Defendants' Proposal	
Parties exchange Preliminary Versions of their parts of the Pretial Order	May 7, 2009	April 27, 2009	
	<i>See</i> § VI of Honeywell's Cover Letter.		
Parties exchange objections and supplementation to Preliminary Versions of the Pretial Order	May 14, 2009	May 4, 2009	
Parties Meet-and-Confer Regarding Pretial Order issues	May 18, 2009	May 6, 2009	
Status Conference Regarding Remaining Schedule	May 21, 2009		
Motions in <i>Limine/Daubert</i> Motions	June 4, 2009	May 15, 2009	
Responses to Motions in <i>Limine/Daubert</i> Motions	June 11, 2009	May 22, 2009	
Hearings on Motions in <i>Limine/Daubert</i> Motions	June 18, 2009	June 3, 2009	
Rulings on Motions in <i>Limine/Daubert</i> Motions	TBD	Provided on a rolling basis no later than June 12, 2009	
Exceptions to Rulings on Motions in <i>Limine/Daubert</i> Motions	TBD	On a rolling basis, no later than 3 days after the ruling comes in, but no later than June 15, 2009	
Responses to Exceptions to Rulings on Motions in <i>Limine/Daubert</i> Motions	TBD	On a rolling basis, three days after the corresponding Exception, but no later than June 18, 2009	

THE PARTIES' PROPOSED SCHEDULES

Pretrial Conference			
	Honeywell's Proposal	Defendants' Proposal	
Honeywell Provides its Parts of the Pretrial Order	June 25, 2009	June 8, 2009	
Defendants Provide their Parts of the Pretrial Order	July 1, 2009	June 15, 2009	
Final Pretrial Order	July 8, 2009	June 22, 2009	
Pretrial Conference	July 10, 2009	Week of June 29, 2009	
Commence Trial on all Issues Against all Manufacturer Defendants	July 13-30, 2009	July 13-30, 2009	

InnoLux			
	Honeywell's Proposal	InnoLux's Proposal	
Deadline for Honeywell to Conclude Jurisdictional Discovery	November 26, 2008		
InnoLux to Renew its Motion to Dismiss	November 28, 2008		
Honeywell's Opposition to InnoLux's Renewed Motion to Dismiss	December 9, 2008		
InnoLux's Reply	December 16, 2008		
Hearing	December 19, 2008		
Ruling	TBD		
Substantive Fact Discovery	November 26, 2008		
Expert Discovery	Same Schedule as All Manufacturer Defendants		
Dispositive Briefing and Trial	Same Schedule as All Manufacturer Defendants		